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## **AT-LARGE ADVISORY COMMITTEE**

### **ALAC Statement on the Trademark Clearinghouse Documents**

#### **Introduction**

By the Staff of ICANN

Avri Doria, At-Large member from the North-American Regional At-Large Organization (NARALO), composed an initial draft of this Statement after discussion of the topic within At-Large and on the Mailing Lists.

On 19 October 2012 an initial draft of this Statement was posted on the [At-Large Trademark Clearinghouse Documents Workspace](#).

On that same day, Olivier Crépin-Leblond, Chair of the ALAC, requested ICANN Policy Staff in support of ALAC to send a call for comments on the draft Statement to all At-Large members via the [At-Large New gTLD Work Group mailing list](#).

On 2 November 2012, the Chair of the ALAC requested that Staff begin a ratification on the Statement.

On 7 November 2012, Staff confirmed that the online vote resulted in the ALAC endorsing the Statement with 14 votes in favor, 0 votes against, and 0 abstentions. You may review the result independently under: <https://www.bigpulse.com/pollresults?code=2731Bsc5MwrnSSZI3bgwuVgd>.

The Chair then requested that the Statement be transmitted to the Public Comment process, copying the ICANN Staff member responsible for this Public Comment topic.

[End of Introduction]

The original version of this document is the English text available at <http://www.atlarge.icann.org/correspondence>. Where a difference of interpretation exists or is perceived to exist between a non-English edition of this document and the original text, the original shall prevail.

**ALAC Statement on the Trademark Clearinghouse Documents**

In August 2012 the Registry Stakeholder Group filed a [DIDP](#) requesting all documents relating to

- Any claims alleging ownership of intellectual property rights made by any bidder or bidders [for Trademark Clearinghouse (TMCH)] responding to the RFI, including but not limited to claims of copyright in data or compilations of data, patents, trademarks or trade secrets; and
- Any analysis regarding validity of these claims.

In September 2012 ICANN [responded](#) that:

*Regarding this item, to the extent that bidders made claims of ownership of intellectual property rights associated with the proposed operation of the Trademark Clearinghouse, those materials are subject to the same conditions of non-disclosure identified in conjunction with Documents on cost and financial models regarding the operation of TMCH. Regarding claims of ownership of intellectual property rights arising out of the operation of TMCH are being negotiated and will be published in the finalized agreement later.*

The ALAC wishes to request further information on the following:

- Intellectual property rights affect or impact ICANN's decision and selection of TMCH providers. Legally, except trade secrets, intellectual property rights, including Patents, Copyright, Trademarks, should be publicly disclosed in due course either for subsistence or exercise. Will intellectual property rights that affect or impact ICANN's decision or selection, be disclosed to the community in due course, or will they be allowed to remain secret?
- Will ICANN (and its community) be appropriately licensed on royalty-free or RAND (reasonable-and-non-discriminatory) basis by the relevant intellectual property owners?
- Is ICANN developing necessary intellectual property policy for decision-making or contract negotiation?

The ALAC further advises that ICANN needs to implement a thoughtful and comprehensive intellectual property policy in which the global public interest is properly secured. In this regard, the Internet Engineering Task Force (IETF) intellectual property policy sets a good example.